

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

Board of Trustees, on behalf of BRICKLAYERS AND TROWEL TRADES INTERNATIONAL PENSION FUND; William Solivais, Chairman of the Board of Trustees, on behalf of BRICKLAYERS UNION LOCAL NO. 6 OF INDIANA HEALTH & WELFARE FUND; John M. Argenta, Secretary of the Board of Trustees, on behalf of INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTWORKERS LOCAL 4 OF IN & KY APPRENTICE FUND; James Boland, Board of Trustees, on behalf of INTERNATIONAL MASONRY INSTITUTE; and BRICKLAYERS LOCAL 4 OF IN & KY, by their attorneys, PAUL T. BERKOWITZ & ASSOCIATES, LTD., complain of Defendant MASTER TILE, INC., stating as follows:

COUNT I

1. This action arises under and jurisdiction resides with this Court pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, et seq., ("ERISA") and more particularly under Sections 502 and 515 of ERISA, 29 U.S.C. §1132 and §1145, and is brought by Plaintiffs Fred A. Colvin, Chairman of the Board of Trustees, on behalf of BRICKLAYERS UNION LOCAL NO. 6 OF INDIANA PENSION FUND; James Boland, Board of Trustees, on behalf of BRICKLAYERS AND TROWEL TRADES INTERNATIONAL PENSION FUND ("IPF"); William Solivais, Chairman of the Board of Trustees, on behalf of BRICKLAYERS UNION LOCAL NO. 6 OF INDIANA HEALTH & WELFARE FUND; John M. Argenta, Secretary of the Board of Trustees, on behalf of INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTWORKERS LOCAL 4 OF IN & KY APPRENTICE FUND; James Boland, Board of Trustees, on behalf of INTERNATIONAL MASONRY INSTITUTE ("IMI"); (collectively "Trust Funds") in order to judicially enforce the obligations owed, and breached, by Defendant MASTER TILE, INC.,

("Master Tile") to Plaintiffs Trust Funds. More specifically, Plaintiffs Trust Funds seek an order compelling Defendant Master Tile to pay the delinquent contributions now known due for the period of January 1, 2007 through December 31, 2012 to Plaintiffs Trust Funds. Plaintiffs Trust Funds also seek an order directing Master Tile to pay any liquidated damages and interest on the delinquent contributions, plus attorneys' fees and costs incurred by Plaintiffs as a result of being forced to bring this action.

2. Plaintiffs Trust Funds are employee benefit funds within the meaning of and subject to ERISA. The Plaintiffs Trust Funds provide benefits for employees working within this judicial district and are, themselves, administered in this judicial district, with the exception of the IPF and IMI which are administered in the District of Columbia, but provide benefits for employees living in this judicial district.

3. At all times materials herein, Defendant Master Tile has employed employees within this judicial district.

4. At all times material herein, Defendant Master Tile has been a signatory to a collective bargaining agreement with the Bricklayers Union Local No. 4 of IN & KY ("Union") and, as such, is bound by the Plaintiffs Trust Funds' Agreements and Declarations of Trust ("Trust Agreements")..

5. Defendant Master Tile breached the Agreements identified in Paragraph 4 of this Count and is in violation of Sections 502 and 515 of ERISA (and 29 U.S.C. § 185) by failing to pay the delinquent contributions and contractually required interest and liquidated damages owed for the period of January 1, 2007 through December 31, 2012 to the Plaintiffs Trust Funds.

6. Despite Plaintiffs Trust Funds' requests, Defendant Master Tile has failed to pay the contractually and statutorily required monies.

7. Plaintiffs Trust Funds have satisfied all statutory prerequisites as set forth in 29 U.S.C. §1132 (h).

WHEREFORE, Plaintiffs Trust Funds pray this Court order that:

1. Defendant Master Tile pay the delinquent contributions, interest and liquidated damages now known due to Plaintiffs Trust Funds for the period of January 1, 2007 through December 31, 2012;
2. Defendant Master Tile pay statutory post-judgment interest on all principal contributions found due by this Order;
3. Defendant Master Tile pay Plaintiffs Trust Funds' attorneys' fees and costs incurred herein; and,
4. Such other and further relief that this Court may find just and proper be entered against Defendant Master Tile.

COUNT II

1. Plaintiff **BRICKLAYERS LOCAL 4 OF IN & KY** ("Union") is a labor organization whose duly authorized officers or agents are engaged in representing or acting for employee members within this judicial district.
2. At all times material herein, Defendant **MASTER TILE, INC.** ("Master Tile") has been engaged in an industry affecting interstate commerce and employs individuals working within this judicial district.
3. This Court has jurisdiction of this action pursuant to Section 301 of the Labor-Management Relations Act, 1947, as amended, 29 U.S.C. §185 ("LMRA").
4. At all times material herein, Defendant Master Tile has been signatory to a

collective bargaining agreement with the Union. Included among the contractual obligations between the parties is the requirement that Master Tile make payroll deductions to the Union.

5. Defendant Master Tile is in breach of its contractual obligations to the Union by failing to pay the delinquent deductions, plus interest and liquidated damages owed thereon for the period of January 1, 2007 through December 31, 2012.

6. Despite the Union's request, Defendant Master Tile has failed to pay the monies identified in this Count.

WHEREFORE, Plaintiff Union prays this Court order that:

1. Defendant Master Tile pay the delinquent deductions, interest and liquidated damages owed to the Union for the above stated period;

2. Defendant Master Tile pay statutory post-judgment interest on all principal deductions found due by this Order;

3. Defendant Master Tile pay Plaintiff Union's attorneys' fees and costs incurred herein; and,

4. Such other and further relief that this Court may find just and proper be entered against Defendant Master Tile.

make certain payroll deductions from its Union bargaining unit employees' paychecks and transmit such monies to the Union's designated depository.

3. The Defendant Master Tile deducted the required payroll deductions from its bargaining unit employees' paychecks for the period of January 1, 2007 through December 31, 2012, but failed to transmit all the monies to the designated depository as required by its collective bargaining agreement.

4. Defendant Master Tile breached its obligation to transfer said monies, which it had deducted from its bargaining unit employees' paychecks, to the designated depository by the due date for transfer at which time said monies became the property of Plaintiff Union and its represented employees and to which Plaintiff Union had an immediate, unqualified right to then possess resting on a superior claim of title.

Respectfully submitted,

PAUL T. BERKOWITZ & ASSOCIATES, LTD.

By /s/ Paul T. Berkowitz
PLAINTIFFS' ATTORNEYS

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